

No. 9/6/86-6Lab./1857.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Hindustan Toolings, 230, HMT Ancillary Unit, Panchkula.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 97 of 1984

SHRI VIJAY SHANKAR PANDE, WORKMAN AND THE MANAGEMENT OF THE MESSRS
HINDUSTAN TOOLINGS, 230, HMT ANCILLARY UNIT, PANCHKULLA

Present :- Shri Abhay Singh, for the workman.

Shri R. L. Chopra, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred by clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Vijay Shankar Pande, workman and the Messrs Hindustan Toolings, 230, HMT Ancillary Unit, Panchkula, to this Court. The terms of reference are as under :—

“Whether the termination of services of Shri Vijay Shankar Pande, workman, is justified and correct, if not to what relief is he entitled ?”

Shri Vijay Shankar through his claim statement alleged that he had been working in the service of Messrs HMT at Panchkula as a Store Keeper for the last about three years. But his services were terminated without assigning any reason to him. Before terminating his services no charge-sheet or show-cause notice were served, nor any enquiry was held so he alleged that his termination is against natural principle of justice as well as in violation of section 25 (F) of the Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Management contested the dispute and contended that the statement of claim is bad because it is not signed and verified by the workman. It was also contended that service of workman were never terminated by the management but the workman himself proceeded on leave on 8th May, 1984 up to 25th May, 1984 and thereafter, workman never reported for duty but only visited the factory of the management and expressed his inability to continue in the service. Ultimately, the wages of the workman for seven days Rs. 118.75 and wages for leave due Rs. 124 were paid to him. Since the services of workman were never terminated so question of issuing any charge-sheet or show-cause notice or launching any enquiry against him does not arise. It was further contended that workman himself abandoned his job and was never terminated by the management. It was also contended that the workman worked only for three months and not for three years. He even did not complete services of 240 days. So violation of section 25 (F) does not arise.

Workman filed rejoinder through his A.R. Shri Abhey Singh and controverted the contentions of the management.

On the pleadings of the parties the following issues were framed :—

Issues

- (1) Whether the termination order dated 18th June, 1984 regarding the service of workman is justified, if not its effect ? OPM
- (2) Whether claim statement has not been properly signed and verified by the workman, if so its effect ?
- (3) Relief.

I have heard Shri Abhey Singh Ld. A.R. of workman and Shri R. L. Chopra A. R. of management-respondent and have perused the evidence placed on the file. After affording thoughtful consideration to the whole matter my issue wise findings are as under :—

Issue No. 1

In support of this issue Shri Grish Kumar partner in Hindustan Toolings, Panchkula appeared. He stated that he has brought attendance register according to that Shri Vijay Shankar remained in the service of

respondant-management only for three months. He was registered under ESI. He used to get Rs. 480 p. m. Thereafter, he proceeded on leave from 4th May, 1984 to 21st May, 1984 when he returned from leave he told the management that he is not interested to continue in the job of the management and demanded one month pay but the management refused to make payment of the same and only paid Rs. 237.25 for those days for which he had worked and Rs. 124 were paid in lieu of leave which were due to him. Thereafter, he left the management premises abusing the management. In cross-examination he also stated that up till 30th January, 1985 workman was kept on of the management and thereafter his name was struck off.

On the other hand Shri Vijay Shankar Pande appeared in the witness box and stated that his services were terminated on 18th June, 1984 without issuing any notice to him and without making payment of service in lieu of notice and nor retrenchment compensation was even paid to him. In view of above evidence at least one factor is clear from the attendance register that the workman remained in the job of the management only for three months and thereafter he left the job of his own. Except the bald statement of workman there is no other evidence on the file from the side of the workman to rebut the attendance register and statement of Shri Girish Kumar partner in the management. So it has to be held that the Workman did not serve the management for 240 days. So, even if it is to be admitted for the sake of the arguments that the management terminated services of workman. In those circumstances a question of issuing any notice or making payment of wages in lieu of notice period and retrenchment compensation does not arise.

When the management received demand notice from the side of workman. It was replied by the management, --vide Ex. M-3 that the management never terminated his services and in fact he had himself abandoned the job of the management when management called for his explanation regarding remaining absent without the permission of the management and also without getting his leave sanctioned.

The main contentions of management is that the workman wanted one month pay in addition to pay due to him on denial by the management to make payment of one month pay he left annoyed and issued demand notice to the management.

In view of the above evidence I think that the case of the management is on better footing it never terminated service of the workman but in fact workman himself left job of the management and thereafter, issued demand notice with intention to harass the management. So this issue is decided, in favour of management and against the workman.

Issue No. 2

The claim statement has been signed by Shri Abhey Singh and not by the workman according to Industrial Disputes Act, Punjab, Rules, 1958 amending up to 27th May, 1976 rule for (C) it has been laid down that in the case of an individual workman this statement of claim be signed by the workman himself or by any Officer of the trade union of which he is a member or by another workman in the same establishment duly authorised by him in this behalf if application is not made in accordance with the provisions of rules 3 & 4 shall not be considered at all.

So in the case in hand it is admitted fact that statement of claim was neither signed nor varified by the workman, there is no evidence on the file that Shri Abhey Singh is an Officer or member of the union of the workman Shri Vijay Shankar. So in these circumstances I have to hold that the statement of claim is bad for having not been properly signed and varified as per rules by the workman or his authorised representative.

Issue No. 3

For the foregoing reasons on the basis of my issuewise findings I hold that there is not termination of workman in fact it is an abandonment of job by the workman himself. So I pass award regarding the controversy between the parties accordingly.

o Dated 28th January, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 285, dated 30th January, 1986.

Forwarded (Four Copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.